

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JAMES EDWARD HARRIS, JR.,

Plaintiff,

v.

RUSSELL OLMSTEAD *et al.*,

Defendants.

CAUSE NO. 3:20-CV-258-DRL-MGG

OPINION & ORDER

James Edward Harris, Jr., a prisoner without a lawyer, filed a complaint and motion to proceed *in forma pauperis*. A prisoner may not bring a civil action or appeal *in forma pauperis* if he has, “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it [was] frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). This is commonly known as “three strikes.”

Mr. Harris has accumulated at least three strikes:

- *Harris v. Sterling*, 3:19-CV-997-DRL-MGG (N.D. Ind. filed Nov. 1, 2019), dismissed December 30, 2019 with prejudice under 28 U.S.C. 1915A(b) because the complaint did not state a claim;
- *Harris v. Lawson*, 3:19-CV-1087-JD-MGG (N.D. Ind. filed Nov. 22, 2019), dismissed December 30, 2019 with prejudice under 28 U.S.C. § 1915A(b) because the complaint did not state a claim; and
- *Harris v. Sterling*, 3:20-CV-004-DRL-MGG (N.D. Ind. filed Dec. 30, 2019), dismissed January 3, 2020 with prejudice under 28 U.S.C. § 1915A(b) because the complaint did not state a claim.

An inmate who has struck out “can use the partial prepayment option in §1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996) (quoting 28 U.S.C. § 1915(g)). To meet the imminent danger standard, the threat

complained of must be real and proximate. *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003). Only “genuine emergencies” qualify. *Lewis v. Sullivan*, 279 F.3d 526, 531 (7th Cir. 2002).

In this case, Mr. Harris has sued Warden Julie Lawson and Captain Russell Olmstead alleging that he has not been provided with a kufi and prayer rug to accommodate his religious practices. Because the complaint does not allege that Mr. Harris faces a current imminent danger of serious physical injury, 28 U.S.C. § 1915(g) mandates that his request to proceed *in forma pauperis* be denied. He may only proceed with this case if he prepays the full filing fee.

For these reasons, the court:

- (1) DENIES James Edward Harris, Jr., leave to proceed *in forma pauperis* (ECF 2);
- (2) GRANTS James Edward Harris, Jr., until April 24, 2020 to pay the \$400.00 filing fee; and
- (3) CAUTIONS James Edward Harris, Jr., that if he does not pay the filing fee by that date, this case will be dismissed without further notice.

SO ORDERED.

March 23, 2020

s/ Damon R. Leichty

Judge, United States District Court